



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

F. PROKOSKI

Serial No. 09/329,217

Group Art Unit: 2623

Filed: June 10, 1999

Examiner: M. MILLER

For: METHOD AND APPARATUS FOR ALIGNMENT, COMPARISON &
IDENTIFICATION OF CHARACTERISTIC TOOL MARKS, INCLUDING
BALLISTIC SIGNATURES

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

RECEIVED

JUN 24 2004

DECLARATION OF MR. MICHAEL E. WHITHAM

The undersigned declares as follows:

Technology Center 2600

- 1) I am the responsible supervising attorney for docketing and mail handling personnel at Whitham, Curtis & Christofferson, PC and its predecessor firm, prior to and at all times since August 2000. I personally supervise docketing and manual correspondence handling procedures at the firm.

- 2) Whitham, Curtis & Christofferson, PC has a multiply redundant docketing procedure which is described in the Appended Exhibit G which is the documented procedure for Docketing Procedures at Whitham, Curtis & Christofferson, PC. I was directly involved with the supervision of handling mail forwarded to Whitham, Curtis & Christofferson, PC, and in the supervision of docketing entry procedures discussed in the appended Exhibit G. I personally supervise Caroline M. Atkins, the Office Manager, whose Declaration is also attached hereto, in regard to handling of correspondence and docketing.

- 3) I have reviewed the Whitham, Curtis & Christofferson, PC file associated with the above-identified patent application and have determined:

- a) there is no original copy of a Notice of Allowance and Allowability dated February 19, 2003 in the file and
- b) no such Notices for the above identified patent application have been received in the office of Whitham, Curtis & Christofferson, PC.

Assuming the respective Notices were mailed from the U.S. Patent and Trademark Office on February 19, 2003, as stated on the Notice of Abandonment mailed July 9, 2003, we would have docketed the due date of the Response in both the manual and computer ledgers, as well as the docketing clerk card file, as follows:

- The dates of March 19, 2003 (reminder), April 19, 2003 (due date), and May 19, 2003 (FINAL) would have been entered into the computer ledger.
- The 2-month date of April 19, 2003 and the 3-month final due date of May 19, 2003 would have been entered into the manual ledger book; and
- The 2-month due date for payment of the Issue Fee and Submission of Formal Drawings of April 19, 2003 would have been entered on the docketing file card as the due date to serve as a reminder.

I indirectly supervise the handling of all mail according to the docketing procedures set forth in Exhibit G on and following February 19, 2003. Attached hereto as Exhibit D and E respectively, are copies of computer printouts from the computer ledger that show all of the Office Action computer entries which were made at Whitham, Curtis & Christofferson, PC. for cases with actions mailed on February 19, 2003, and cases with actual due dates of May 19, 2003. Also included in Exhibit C is a printout of all actions for the above-identified case. These entries are entered and checked daily by the Office Manager, Caroline M. Atkins. It can be seen from these entries that no entry for the payment of the Issue Fee due date in the aforementioned Notice of Allowance and Allowability for the above-identified application was made. Furthermore, regardless of when an action is received, the final due date would be manually docketed in the handwritten ledger.

Attached as Exhibit F, is a copy of a ledger page for May 19, 2003 from the handwritten ledger docket book kept at Whitham, Curtis & Christofferson, PC. This page indicates 2-month due dates for Actions due for dockets 01240115BA, 00990082AA, and 01640095AA but no other actions with final 3-month due dates were entered for that day. These manual ledger entries were regularly made and checked against the file card entries and the computer docketing system by the Office Manager at that time, immediately after the mail is logged in the computer system each day. It can be seen from this page that no Notice of Allowance or Allowability for the above identified application was entered for that day, while entries appear for similar actions in other applications.

The manual ledger, and the automated docketing system are in exact agreement and do not show receipt of the respective Notices for the above-identified application. However, receipt and correct handling of similar papers, is evident. Therefore, I conclude that no Notice of Allowance nor Notice of Allowability for the above-identified application were received.

4) I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements

and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application and any patent issuing thereon.

Date: June 17 2004



Michael E. Whitham
Partner
Whitham, Curtis & Christofferson, PC

On this 6/17, 2004, before me personally came Michael E. Whitham to me personally known, and known to me to be the person described in and who executed the foregoing declaration, and he executed the same as his free act and deed.

State Of Virginia
County of Fairfax



Notary
My commission expires: 12/31/07